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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,010	12/21/2001	Gregory L. Renda	1270	2780
30748	7590	02/06/2006	EXAMINER	
INNOVATION PARTNERS 540 UNIVERSITY DRIVE SUITE 300 PALO ALTO, CA 94301			VU, THONG H	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/027,010

Applicant(s)

RENDA ET AL.

Examiner

Thong H. Vu

Art Unit

2142

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

1. Claims 1-22 and new claims 23-26 are pending.
2. Claim 23 is improper as new claim.

Response to Arguments

3. Applicant's arguments filed 12/27/05 have been fully considered but they are not persuasive to overcome the prior art.

1. Double Patenting:

A. Applicant argues the present application recites "responsive to the at least on indication retrieved having the first state, forwarding the communication with the source identifier" and the ('011) recites "selectively grant access to a network to a communication received from a device having the device having a identifier, responsive to the at least on set of privileges received".

Examiner points out the

"responsive to the at least on indication retrieved having the first state" (i.e.: responsive to the at least on set of privileges received),

"forwarding the communication with the source identifier the communication with the source identifier" (i.e.: selectively grant access to a network to a communication received from a device having the device having a identifier).

Thus, the Double Patenting is sustained.

2. The 112 Rejection:

As per claims 1-26, Applicant argues the first state (real mode) and second state (otherwise).

Examiner points out the real mode was recited in specification but not clearly defined as the first state and if the second state was defined as "otherwise". It will be indefinite and It was an undue experiment to perform an second state as otherwise which not clearly defined in specification.

3. The 102 Rejection:

a. As per claims 1,8,15,22, Applicant argues "a indication having **one** selected from a first state and a second state (*emphazise added*) which means one state not both state.

Examiner points out the limitations "EITHER ...OR" was not recited in claim language. The limitation "AND" was used in claim language. Examiner interpreted "a indication having **one** selected from a first state and a second state" such as "having a privilege (i.e.: grant access to forward communication) to communicate over the network [Keeler col 2 lines 40-52].

b. Applicant argues the prior art does not teach "forwarding the communication".

Examiner points out the prior art taught "the routine continues by sending (i.e.: forwarding) the information to a log and collects the router MAC ID and TCP/IP addresses [Keeler, col 6 lines 32-38].

Thus, the rejection sustained.

Thong Vu
Primary Examiner
Art Unit 2142

